IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION

INCOME TAX REFERENCE NO.947 OF 1998

The Commissioner of Income Tax,
Bombay City VI, Bombay .. Applicant
V/s
M/s.Photophone Pvt.Ltd. .. Respondent

Mr.A.S.Rao for the Applicant.

Mr.P.J.Pardiwala i/by Rustomji & Ginwala for the Respondents.

CORAM: S.RADHAKRISHNAN &
A.S.AGUIAR, JJ.

DATE : 06.06.2005.

P.C.:

1. Heard the learned Counsel for the parties. In the above, the question referred to, reads as under:-

"Whether on the facts and in the circumstances of the case, the Income Tax Appellate Tribunal has rightly held that the assessee is entitled to claim for depreciation u/s.32 on the assets used by it for scientific research the cost of which was allowed in the earlier year u/s.35 of the Income Tax Act, 1961? "

2. Referring to the judgment in the case of **Escorts Ltd. & Anr. V/s Union of India & Ors. 1993 (199) ITR 43**, the learned Counsel for the Respondents very fairly states that the question referred to has already been answered against the Assessee. Hence the answer to the above question is in the negative. Reference stands disposed of.

(S.RADHAKRISHNAN,J.)

(A.S.AGUIAR,J.)